	Application No.	Applicant(s)
Notice of Allowability	10/618,103	HOREJŚI ET AL.
	Examiner	Art Unit
	Elizabeth F. McElwain	1638
The MAILING DATE of this communication appears on the cover sheet with the correspondence address All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.		
1. This communication is responsive to <u>papers filed 8/4/06.</u>		
2. The allowed claim(s) is/are 1-15 and 17-27.		
 3.	e been received. e been received in Application No cuments have been received in this application to file a reply of this application. eited. Note the attached EXAMINER' as reason(s) why the oath or declarate the submitted. on's Patent Drawing Review (PTO-S	national stage application from the complying with the requirements S AMENDMENT or NOTICE OF tion is deficient.
 (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d). 		
 DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL. 		
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 Attachment(s) 1. ☐ Notice of References Cited (PTO-892) 2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 3. ☑ Information Disclosure Statements (PTO/SB/08),	5. Notice of Informal Pa 6. Interview Summary (Paper No./Mail Date 7. Examiner's Amendm 8. Examiner's Statemen 9. Other	(PTO-413), ∋
U.S. Patent and Trademark Office PTOL-37 (Rev. 08-06) Not	tice of Allowability	Part of Paper No./Mail Date 20070130

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1. The following is an examiner's statement of reasons for allowance: the prior art does not teach or suggest a soybean variety having all of the physiological and morphological characteristics of soybean variety 0137335. Applicant provided an IDS citing US Patent 6,162,972 drawn to soybean cultivar 9323119511180. However, soybean cultivar 9323119511180 does not anticipate the claimed variety, given that soybean cultivar 9323119511180 has a tawny pubescence instead of a gray pubescence, for example.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

REQUIREMENT OF ALLOWANCE UNDER 37 CFR §§ 1.801-1.809

The Deposit Statement filed January 31, 2006 is deemed in accordance with 37 CFR §§ 1.801-1.809. Therefore, no 35 USC § 112, first paragraph rejection has been maintained even though it is apparent that 0137335 soybean seed is essential to the claimed invention and that the deposit is necessary for an adequate written description and enablement for the claimed invention.

Since the application is otherwise in condition for allowance except for the needed deposit of 0137335 seed and since the Office has received written assurance that an acceptable deposit will be made on or before payment of the issue fee, the Office is authorized to mail Applicant a Notice of Allowance and Issue Fee Due together with a requirement that the needed deposit be made within THREE (3) MONTHS of the mail date of this letter (see 37 CFR § 1.809(c)).

Under 37 CFR 1.809(c)(d) an applicant is required to make a deposit of seed within three months after the mailing date of the Notice Of Allowance and Issue Fee Due. The period for satisfying this requirement is extendible under § 1.136, however, failure to make the needed deposit of seeds of 0137335 will result in abandonment of the application for failure to prosecute. The all blank lines in the specification in lieu of the deposit number, and all claims which refer to the instant seeds by name, must be amended to include the deposit accession

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number. These amendments should be submitted <u>before</u> the payment of the issue fee as an <u>Amendment After Allowance</u> under 37 CFR 1.312. If the amendment is received after the payment of the issue fee the same should be made under the provisions of 37 CFR 1.312(a) and a petition filed under 37 CFR 1.183 to waive the requirement of 37 CFR 1.312 that the amendment be filed before or with payment of the issue fee, that is, it must be accompanied by a fee in accordance with 37 CFR 1.17(i) and a petition which includes "a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented and why justice requires waiver of the rule"). Finally, the statement of deposit in the specification shall contain:

- (1) The accession number for the deposit(s);
- (2) The date of the deposit(s);
- (3) A description of the deposited biological material sufficient to specifically identify and to permit examination; and
- (4) The name and address of the depository. (See 37 CFR 1.809(d)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth F. McElwain whose telephone number is (571) 272-0802. The examiner can normally be reached on increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elizabeth F. McElwain, Ph.D.

Primary Examiner Art Unit 1638

EFM